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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 AARON REDDIX,) CASE NO. CV 17-00484-RGK (PJW)
11 Plaintiff,)
12 v.) [PROPOSED] ORDER DISMISSING
13 CITY OF LOS ANGELES, et al.,) ACTION FOR FAILURE TO PROSECUTE
14 Defendants.)
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16 Plaintiff filed this civil rights action in 2017, alleging that a
17 police detective involved in his arrest and prosecution filed a false
18 police report and perjured himself at the preliminary hearing. At the
19 time, Plaintiff was in Men's Central Jail in Los Angeles. The Court
20 dismissed the action in the screening process and Plaintiff appealed.
21 In October 2017, the Ninth Circuit reversed and remanded the case for
22 further proceedings.

23 After remand, this Court issued an order giving Plaintiff an
24 opportunity to file a First Amended Complaint, which was sent to his
25 address and was returned as undeliverable because Plaintiff was no
26 longer at Men's Central Jail. The Court then accessed the county
27 prison locator system and determined that Plaintiff had been
28 transferred to state prison (North Kern) in February 2017 and later

1 Corcoran. The state prison locator system showed that Plaintiff was
2 no longer in the system, meaning he had been released. The Court
3 contacted Corcoran and learned that Plaintiff had been released from
4 Corcoran and had not left a forwarding address.

5 Nevertheless, on December 12, 2017, the Court issued an order to
6 show cause, requiring Plaintiff to update the Court with his current
7 address. (Doc. No. 15.) Plaintiff was warned that, if he did not
8 respond to the Order, his case would be dismissed under Rule 41(b).
9 That order has now been returned to the Court.

10 Rule 41(b) of the Federal Rules of Civil Procedure authorizes a
11 district court to *sua sponte* dismiss an action for failure to comply
12 with a court order. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-30
13 (1962) ("The power to invoke this sanction is necessary in order to
14 prevent undue delays in the disposition of pending cases and to avoid
15 congestion in the calendars of the District Courts."). In determining
16 whether dismissal is warranted, the Court considers five factors:
17 (1) the public's interest in expeditious resolution of litigation,
18 (2) the Court's need to manage its docket, (3) the risk of prejudice
19 to Defendants, (4) the public policy favoring the disposition of cases
20 on their merits, and (5) the availability of less drastic sanctions.
21 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992); *Omstead v.*
22 *Dell*, 594 F.3d 1081, 1084 (9th Cir. 2010).

23 The Court finds that the delay here necessarily implicates both
24 the interest in expeditious resolution of litigation and the Court's
25 need to efficiently manage its docket--the first and second factors--
26 and weighs in favor of dismissal. See *Yourish v. Cal. Amplifier*, 191
27 F.3d 983, 990 (9th Cir. 1999) ("[T]he public's interest in expeditious
28 resolution of litigation always favors dismissal."); *Pagtalunan v.*

1 *Galaza*, 291 F.3d 639, 642 (9th Cir. 2002) (finding factors of public
2 interest in expeditious resolution of case and court's need to manage
3 its docket weigh in favor of dismissal where litigant failed to pursue
4 the case for almost four months). Plaintiff's failure to keep the
5 Court apprised of his address has caused this action to come to a
6 halt, impermissibly allowing Plaintiff to control the pace of the
7 docket rather than the Court. *See Yourish*, 191 F.3d at 990;
8 *Pagtalunan*, 291 F.3d at 642 ("It is incumbent upon the Court to manage
9 its docket without being subject to routine noncompliance of litigants
10").¹

11 The third factor--risk of prejudice to Defendants--also weighs in
12 favor of dismissal. As time goes by, the witnesses' memories begin to
13 fade and the evidence becomes stale, making it increasingly difficult
14 for Defendants to defend themselves against these charges. *See In re*
15 *Phenylpropa-nolamine (PPA) Prod. Liab. Litig.*, 460 F.3d 1217, 1227
16 (9th Cir. 2006) ("The law . . . presumes prejudice from unreasonable
17 delay.").

18 The fourth factor--the general policy favoring resolution of
19 cases on the merits--weighs in Plaintiff's favor. *See Pagtalunan*, 291
20 F.3d at 643 ("Public policy favors disposition of cases on the
21 merits."). But without Plaintiff, the Court cannot proceed to the
22 merits of his claims.

23 Finally, the fifth factor--availability of less drastic
24 alternatives--also weighs in favor of dismissal. The Court is unable
25 to impose a lesser sanction, e.g., monetary sanctions, because
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27 ¹ The Court notes that Local Rule 41-6 provides that, if a party
28 proceeding *pro se* fails to keep the Court apprised of his current
address, "the Court may dismiss the action with or without prejudice
for want of prosecution."

1 Plaintiff is proceeding IFP (and, therefore, does not have any money
2 to pay sanctions) and because he cannot be found.

3 Considering all five factors, the Court concludes that dismissal
4 for failure to prosecute is warranted. See *Ferdik*, 963 F.2d at 1263
5 (concluding dismissal appropriate where supported by three factors);
6 *Pagtalunan*, 293 F.3d at 643 (same).

7 IT IS SO ORDERED.

8 DATED: January 12, 2018
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11 R. GARY KLAUSNER
12 UNITED STATES DISTRICT JUDGE
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16 Presented by:

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18 PATRICK J. WALSH
19 UNITED STATES MAGISTRATE JUDGE
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